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IN THE MONEY: Big Names And Other Notables Back Diomed

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A Dow Jones Newswires Column
NEW YORK -- A high-profile attorney who represented O.J. Simpson. A co-owner of a professional hockey team. A former Wall Street banker who appears regularly on television.

It seems like a disparate group. But these people do have at least one thing in common: They are investors in a tiny medical company that recently began trading on the American Stock Exchange.

Diomed Holdings Inc. (DIO) has few assets, fewer employees and, until recently, a buoyant stock price.

What attracted these big-name people to this little company? Obviously, the hope of big returns. There's been talk in the market that if Diomed's stock price strengthens, it could become part of one of the Russell indexes. And if that happens, institutions looking to match those indexes would have to scoop up its shares.

But there are a few things investors in Diomed would probably like to know that haven't been disclosed:

-- One of its larger shareholders paid an outside firm \$700,000 to produce a glowing research report on Diomed. That outside firm employs a man the Securities and Exchange Commission in 1996 charged with paying kickbacks to brokers to buy and sell certain securities. He settled with the SEC without confirming or denying guilt.

-- Some of the company's regulatory filings list its shares outstanding at 9.2 million, as does Diomed's stock transfer agent. But after conversion of certain other securities the company has outstanding, which with some work you can figure out from Diomed's filings, that number of shares outstanding is really closer to 30 million.

-- One member of Diomed's board was sanctioned by British regulators for his role in the fall of Barings Securities. Another headed a company sanctioned by the SEC for parking stock.

Notable Owners

The story of Diomed as a publicly traded entity began in February, when the then-private company did a reverse merger with a shell company called Netaxco Corporation.

Even before Diomed became public it began to attract some high profile investors, including the once-feared corporate raiders and greemailers Sam Belzberg and his son Marc.

The Belzberg family made a name for itself in the 1980s by teaming up with Texas oilman and corporate raider T. Boone Pickens Jr. and financier Drexel Burnham Lambert Inc. in some of that decade's major takeover battles. Belzberg once specialized in buying up large blocks of stocks and getting companies to effectively pay greenmail to avoid the threat of a hostile takeover.

Patriarch Sam and son Marc through a series of investments over the last three years became owners of 1.02 million and 2.78 million Diomed shares, respectively, through a couple of investment vehicles.

The Belzberg's relationship with Diomed doesn't stop there. A long-time Belzberg associate, Ajmal Khan, is the largest holder of Diomed stock with 4.42 million shares. Khan is a founder and chief executive officer of Verus International Group Ltd., a Cayman Islands-based investment firm that in a marketing presentation claims to have been co-established by Citigroup (C) and to count Citigroup as a strategic partner. Citigroup denies any formal relationship with Verus.

Another notable Diomed insider is Jack Rivkin, vice president at Citigroup Investments until his retirement in December. Before that, he was director of global research at Smith Barney, a unit of Citigroup. Rivkin, chairman of Verus International Group Ltd., appears to have began buying preferred stock in the then-private company in March 2001 at \$1 a share.

Most recently, Rivkin, a regular guest on CNBC, was one of 46 investors that bought Diomed stock at \$2 a share through a private placement. Other investors in that deal include Alan Dershowitz, the well-known defense attorney, author and Harvard professor who helped successfully defend former football star O.J. Simpson against murder charges; and Morris Belzberg, part owner of the Pittsburgh Penguins ice hockey team and cousin of Sam Belzberg and Belzberg's son-in-law Matthew Bronfman, the Seagram heir.

Dershowitz said he became involved with Diomed through his son. The attorney said he didn't know anything about the company's use of outside firms to promote its stock.

Research Or Promotion?

Diomed's stock has taken a turn for the worst recently after reports circulated about the aggressive use of paid-for-advertising to promote the stock, including a newsletter called the Larry Abraham's Insider Report produced by a Florida business called Catalyst Communications.

A spokeswoman for Diomed denied that the company paid any fees, or authorized the issuance of stock, to Catalyst, Abrahams or Mohammed Patel, an individual identified in two other newsletters as having financed the promotion of Diomed stock. (In those cases a total of \$150,000 in cash and 250,000 options convertible into free trading shares exerciseable at \$3.50 were paid out).

But Abraham told Dow Jones Newswires that he was approached by Diomed and by Catalyst to write his bullish February report on the company.

In phone interviews, Catalyst's owner Bart Walters said that a total of \$700,000 was spent to hire Larry Abraham, print and produce 800,000 copies of the report and send them out to prospective investors. He said that his firm was paid directly by Verus International - that's right, the same Verus that's not only a major and long-time shareholder of Diomed, but which also since December has been advising Diomed at cost of \$15,000 a month.

Verus' Khan and Rivkin didn't return phone calls.

Patrick Kephart, identified by Catalyst's Walters as "his partner," was charged by the SEC for paying kickbacks to brokers for selling certain securities to their clients. In 1998, Kephart, without admitting or denying SEC allegations, agreed to disgorge \$72,000 in profits and fines.

Others associated with Diomed have had run-ins with regulators, too. Marc Belzberg and the Vancouver-based family holding company First City Financial were sued by the SEC in 1986 for stock parking and forced to disgorge \$2.7 million in profits from the attempted but failed takeover of Ashland Oil Inc. The Belzbergs were accused of parking stock with Bear Stearns & Co. to avoid disclosing their stake in Ashland, later selling back the stock to Ashland Oil at a profit. The U.S. Court of Appeals upheld a lower court ruling against First City Financial Corp. and Marc Belzberg in 1989.

And then there is Peter Norris, a Diomed director and former chief executive officer of Barings Securities, who in 1998 was barred for four years from acting as a director of any British company because of his role in the 1995 collapse of that bank. That ban is to end at the end of this March.

Speaking of Britain, Diomed is headquartered in Andover, Ma., but 40 of its 49 employees work at Diomed Ltd., a U.K. subsidiary.

Insiders in Diomed who bought stock as low as \$1 and \$2 a share stand to profit greatly from the company's stock promotion, especially if Diomed's market capitalization allows it to make it in Russell's small-cap benchmark index, the Russell 2000. Inclusion in the index is decided at the end of May. Analysts estimate that to be included in the Russell 2000 this year, a company will need to have a market capitalization of at least \$120 million.

Which brings us back to the question about just how many Diomed shares are outstanding.

In filings with the SEC, Diomed lists 9.2 million shares outstanding, a number confirmed by the company's transfer agent, Corporate Stock Transfer Inc. But a closer look at regulatory exhibits and recent filings by Verus and Marc Belzberg's fund, Winton Capital Holdings Ltd., shows that in fact Diomed has close to 29 million shares outstanding, including a float of 9.2 million, 5 million shares issued through a February private placement which can't be sold for a period of 6 months. Also recently issued to former Diomed shareholders are preferred shares that convert into 14.7 million common shares over the next two years.

That's a total of 28.9 million shares outstanding, which means that even at its current price of \$4.15 a share, Diomed is close to making the Russell 2000 cutoff.

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